

Honorable Judge Benjamin Settle

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

CLYDE RAY SPENCER, MATTHEW RAY  
SPENCER, and KATHRYN E. TETZ,

Plaintiffs,

v.

FORMER DEPUTY PROSECUTING  
ATTORNEY FOR CLARK COUNTY JAMES  
M. PETERS, DETECTIVE SHARON KRAUSE,  
SERGEANT MICHAEL DAVIDSON, CLARK  
COUNTY PROSECUTOR'S OFFICE, CLARK  
COUNTY SHERIFF'S OFFICE, THE COUNTY  
OF CLARK and JOHN DOES ONE THROUGH  
TEN,

Defendants.

No. C11-5424BHS

**DECLARATION OF  
KATHLEEN T. ZELLNER IN  
SUPPORT OF PLAINTIFF'S  
RESPONSE TO DEFENDANTS'  
MOTION FOR FED.R.CIV.P.35  
EXAMINATION**

**NOTICE DATE:  
Friday, November 30, 2012**

Pursuant to 28 U.S.C. § 1746, Kathleen T. Zellner declares under penalty of perjury under the laws of the State of Washington and the United States of America that the following is true and accurate:

1. I am the attorney of record for Plaintiff Clyde Ray Spencer in the above entitled action. I am competent to testify in all respects, and make this declaration from personal knowledge.

DECLARATION OF KATHLEEN T. ZELLNER IN SUPPORT  
OF PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION  
FOR EXAMINATION PURSUANT TO FED.R.CIV.P.35 (C11-  
5424BHS) — 1

Kathleen T. Zellner & Associates, P.C.  
LAW OFFICES  
1901 Butterfield Road  
Suite 650  
Downers Grove, Illinois 60515  
630.955.1212 main - 630.955.1111 fax

SIGNED this 26<sup>th</sup> day of November, 2012 in Downers Grove, Illinois.

Attorney for Plaintiffs

**Kathleen T. Zellner & Associates, P.C.**  
LAW OFFICES  
1901 Butterfield Road  
Suite 650  
Downers Grove, Illinois 60515  
630.955.1212 main • 630.955.1111 fax

DECLARATION OF SERVICE

I hereby certify that on November 26, 2012, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF System, which will send notification of such filing to the attorneys of record, and that a copy was mailed via U.S. mail to the attorneys of record from 1901 Butterfield Road, Downers Grove, Illinois, as follows:

Patricia Campbell Fetterly Daniel J. Judge Robert M. McKenna Assistant Attorney General Torts Division PO Box 40126 Olympia, WA 98504-0116 Email: patriciaf1@atg.wa.gov Attorneys for Defendant James M. Peters	Bernard F. Veljacic Deputy Prosecuting Attorney Clark County Prosecuting Attorney Civil Division 604 W. Evergreen Blvd. P.O. Box 5000 Vancouver, WA 98666-5000 Email: Bernard.Veljacic@clark.wa.gov Attorney for Defendants Clark County Prosecutor's Office, Clark County Sheriff's Office, and Clark County
Guy Bogdanoich Law, Lyman, Daniel, Kamerrer & Bogdanovich, P.S. P.O. Box 11880 Olympia, WA 98508-1880 Email: gbogdanovich@lldkb.com Attorney for Defendant Sharon Krause	Jeffrey A. O. Freimund Freimund Jackson Tardif & Benedict Garratt, PLLC 711 Capitol Way South, Suite 602 Olympia, WA 98502 Email: jeffF@fjtlaw.com Attorneys for Defendant Michael Davidson

/s/ Kathleen T. Zellner

Kathleen T. Zellner & Associates, P.C.  
 Admitted *pro hac vice*  
 1901 Butterfield Road  
 Suite 650  
 Downers Grove, Illinois 60515  
 Phone: (630) 955-1212  
 Fax: (630) 955-1111  
[kathleen.zellner@gmail.com](mailto:kathleen.zellner@gmail.com)  
 Attorney for Plaintiffs

DECLARATION OF KATHLEEN T. ZELLNER IN SUPPORT  
 OF PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION  
 FOR EXAMINATION PURSUANT TO FED.R.CIV.P.35 (C11-  
 5424BHS) — 3

Kathleen T. Zellner & Associates, P.C.  
 LAW OFFICES  
 1901 Butterfield Road  
 Suite 650  
 Downers Grove, Illinois 60515  
 630.955.1212 main • 630.955.1111 fax

# Exhibit A



WASHINGTON CORRECTIONS CENTER  
SHELTON, WASHINGTON  
  
PSYCHOLOGICAL REPORT

**IDENTIFYING DATA**

NAME: Spencer, Ray  
NUMBER: 910743  
DATE OF BIRTH (AGE):  
EVALUATION DATES(S): April 21, 22, 23, and May 7, 1998  
DATE OF REPORT: May 11, 1998  
PSYCHOLOGIST: Carla van Dam, Ph.D., Psychologist 3

**SOURCES OF INFORMATION:**

Clinical Interview	4/21/98 and 5/07/98
Review of Records	4/21/98
Wechsler Adult Intelligence Scale III (WAIS III)	4/21/98
Wide Range Achievement Test 3 (WRAT 3)	4/21/98
Wonderlic Personnel Test	5/07/98
Woodcock Reading Mastery Tests - Revised (WRMT-R)	4/21/98
Raven's Standard Progressive Matrices	4/23/98
Attention Tasks	4/23/98
Rey Auditory-Verbal Learning Test (AVLT)	4/22/98
Wisconsin Card Sorting Test (WCST)	4/21/98
Lateral Dominance Examination	4/23/98
Halstead-Reitan Neuropsychological Test Battery	
- Adult Form (Dodrill Modification)	4/23/98
Benton's:	
Judgment of Line Orientation	4/23/98
Visual Form Discrimination	4/23/98
Facial Recognition Test	4/23/98
Ruff Figural Fluency Test	4/22/98
Grooved Pegboard	4/22/98
Embedded Figures Test	4/22/98
Grip Strength	4/23/98
Story Learning Test	4/24/98
Hare Psychopathy Checklist - Revised (PCL-R)	4/24/98
Level of Service Inventory - Revised (LSI-R)	4/24/98
Millon Clinical Multiaxial Inventory (MCMI)	4/22/98
Minnesota Multiphasic Personality Inventory (MMPI)	4/23/98
Multiphasic Sex Inventory (MSI)	4/24/98
Personality Assessment Inventory (PAI)	4/22/98
Rorschach	4/21/98

Spencer000917

# Exhibit B

NONDISCLOSABLE (see note below)

WASHINGTON CORRECTIONS CENTER  
SHELTON, WASHINGTON

PSYCHOLOGICAL EVALUATION: ISRB Review

---

IDENTIFYING DATA:

NAME: SPENCER, Clyde Ray  
NUMBER: 910743  
DATE OF BIRTH (AGE):  
EVALUATION DATE(S): 06/22, 07/20, 07/23, 07/24, & 07/25  
DATE OF REPORT: August 5, 2001  
PSYCHOLOGIST: Iris E.V. Rucker, Ph.D., Psychologist 5

REASON FOR REFERRAL:

On June 7, 2001 the Indeterminate Sentence Review Board (ISRB), requested a current psychological evaluation on Mr. Clyde Ray Spencer to use as a part of their 0.100 Hearing process, once again, to review the parolability and safety to be at large for this man. Mr. Spencer has been an Out of State (OOS) boarder in Idaho but was returned to the Washington Corrections Center (WCC) on June 21, 2001. Subsequently, this psychological evaluation was completed to better understand the current status of Mr. Spencer's functioning, the nature of any psychological problems, the practical implications of such problems, and the most appropriate treatment recommendations for those discernable difficulties.

This is a psychological report providing risk assessment information for DOC classification staff, community corrections officers, DOC Risk Management Specialists, the Indeterminate Sentence Review Board (ISRB), End of Sentence Review Committee (EOSR), and care providers within DOC who have a need to know. Disclosure and dissemination of this report shall be in accordance with RCW 70.02 and DOC Policy 640.020. It shall not be released to individuals outside DOC without the inmate's consent or unless otherwise authorized by law. The inmate was advised of the purpose of the evaluation and departmental policy regarding information practices. A written explanation of the limits of confidentiality was presented and explained to the inmate and a copy, signed by him, was placed in his health care records.

**NONDISCLOSABLE:**

In the opinion of the evaluator, release of this report would be injurious to the health of the inmate or cause danger to the life or safety of an individual. As a result, access to this report is denied or limited.

This health care information is expected to be used by classification and other staff who have a legitimate need to know it to effectively manage the inmate within the Department of Corrections. This report is replicated in the inmate's health record.

Spencer004227



Psychological Report Summary: ISRB Review  
**SPENCER, Clyde #910734**  
 August 5, 2001  
 Page 3 of 31

Hospital Records from Oregon Health Sciences Hospital covering Mr. Spencer's hospitalization for depression, including any psychological evaluations, psychiatric evaluations, and detailed information regarding medication regimes.

Jail Observation Reports during the two different times when Mr. Spencer was incarcerated prior to trial/sentencing.

Declaration from John Pearce

Declaration of Clyde Ray Spencer

Medical Chart from Clark County Jail

Letter from Dr. Dixon

Mr. Spencer's wife's statement regarding his daughter's request for sexual activity (~1984)

#### Psychological Tests Used:

Wonderlic Personnel Test	07/23/01
Woodcock Reading Mastery Tests - Revised (WRMT-R), administered by Carla van Dam, Ph.D.	04/21/98
Wide Range Achievement Test 3 (WRAT 3), administered by Carla van Dam, Ph.D.	04/21/98
Wechsler Adult Intelligence Scale - 3 <sup>rd</sup> Edition (WAIS-III), administered by Carla van Dam, Ph.D.	04/21/98
Raven's Standard Progressive Matrices	06/29/01
Minnesota Multiphasic Personality Inventory - 2 (MMPI-2)	06/29/01
Millon Clinical Multiaxial Inventory (MCMI)	06/29/01
Personality Assessment Inventory (PAI)	06/29/01
Interpersonal Behavior Survey (IBS)	06/29/01
Multiphasic Sex Inventory (MSI)	07/24/01
Psychosexual Life History	07/23/01
Rorschach	07/24/01
Level of Service Inventory - Revised (LSI-R) by Rich Bowman, Classification Counselor 3	08/06/01
Hare Psychopathy Check List - Revised (PCL-R)	08/05/01
Violence Risk Appraisal Guide (VRAG)	08/05/01
Hart's Historical, Clinical, Risk Management - 20, Version 2 (HCR-20)	08/05/01
Minnesota Sex Offender Screening Tool - Revised (MnSOST-R)	08/05/01
Rapid Risk Assessment for Sexual Offense Recidivism (RRASOR)	08/05/01
Sex Offender Risk Appraisal Guide (SORAG)	08/05/01
Hart's Sexual Violence Risk - 20 (SVR-20)	08/05/01
Static-99	08/05/01

Spencer004229